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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,834	07/01/2003	Claudio Caldato	60980084-3	3047
7590	08/17/2005			EXAMINER BAYAT, ALI
				ART UNIT 2625 PAPER NUMBER

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/611,834	CALDATO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ali Bayat	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 May 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 12,13 and 15 is/are rejected.
- 7) Claim(s) 14 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

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### **Withdrawal Of Notice Of Allowance**

1. The indicated allowability of claims 12-15 (renumbered as 1-4) on 7/12/05 are withdrawn in view of the newly discovered reference(s) to Merritt et al. (US 6,421,429). Rejections based on the newly cited reference(s) follow.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 12 and 15 of instance Application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13 and 14 of U.S. Patent No. 6,665,435. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both provide for image data processing method and corresponding device.

Claim 12 of instance Application corresponds to lines 1-8 of claim 13 of U.S. patent 6,665,435), and the only difference between them are that claim12 of instance Application uses "unit" for (input image unit, output image unit and a selection unit) and claim 13 of U.S. patent6, 665,435, uses "means" for (input image means, output image

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means and a selection means), yet claim 12 of instance Application is broader than claim 13 of U.S. patent 6,665,435, and yet means can include unit or step or process. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize unit for image data processing instead of means, for providing more detail image processing

Claim 15 of instance Application corresponds to lines 40-41 of claim 14 of U.S. patent 6,665,435, with the same differences of using the "unit" for instance Application instead using "means" in U.S. patent 6,665,435, and yet claim 14 of U.S. patent 6,665,435, is broader than claim 15 of instance Application. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize unit for image data processing instead of means, for providing more detail image processing.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12-13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Merritt et al. (US 6,421,429).

In regard to claim 12, Merritt provides for a configurable image processing device to read and output and image data (Fig. 4A, elements 22 and 26, col. 7 lines 13-15, note that session manager 22 provides the image format and protocol conversion process controller 26 with the format and protocol of the called device 40, which corresponds to output device) comprising an input means unit (Fig.4 element 30) to get an input image (Fig.4A note originating image data) and an output unit (Fig.4A note terminating image) that provides a particular output format depending on a final device that receive such output image data ( Fig.4A element 40, col.7 lines 14-15, note called device) , a selection unit that selects a particular group of atomic operations to be performed on the basis of said final device performance ( Fig.4A element 26, lines 19-26), so creating a specific sequence providing meaningful information (Fig.4A element 26) for the selected device ( Fig.4A element 40).

With regard to claim 13, Merritt provides for at least the following major subsystems: unit of processing called transforms (col.11 line 19, note transmission), unit of work called packets (col.9 lines 40-41, note packet-switched communications), unit of transportation called ports (Fig.4A element 22, col.4 lines 10-11, note modem banks, e-mail support software, which corresponds to ports).

As to claim 15, Merritt provides for a configurable image-processing device, that further comprising a sequence of basic operations providing a re-mapping architecture (col.7 lines 9-22).

***Allowable Subject Matter***

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4. Claim14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Bayat whose telephone number is 571-272-7444. The examiner can normally be reached on M-F9:005:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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8/01/05

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